

Introduced by Senator Kuehl

February 21, 2003

An act to amend Sections 140.5, 1143, 2656, 2679, 2707.5, 2708, 2708.1, 2709, 2714, 3012, 3253, 3254, 3301, 3302, and 3303 of, and to add Sections 3302.1 and 3306 to, the Unemployment Insurance Code, relating to disability compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 727, as introduced, Kuehl. Unemployment and disability compensation: family temporary disability insurance.

Under existing law, the family temporary disability insurance program provides up to 6 weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a new child. These benefits are payable for family temporary disability leaves that begin on and after July 1, 2004.

This bill would make conforming and clarifying changes in provisions relating to family temporary disability compensation.

Existing law also requires that an individual claiming disability benefits establish medical eligibility by filing a claim supported by a certificate of a treating physician or practitioner that establishes, among other things, the condition of the family member.

This bill would require that that certificate be within the knowledge of the physician or practitioner and be based on a physical examination and documented medical history of the family member.

This bill would also define the disability benefit period for purposes of the family temporary disability insurance program, clarify the amount of benefits an individual is eligible to receive each full day under the program, and would authorize the Director of the

Employment Development Department to require the care recipient to submit to reasonable examinations, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 140.5 of the Unemployment Insurance
2 Code is amended to read:

3 140.5. “Unemployment compensation disability benefits” or
4 “disability benefits” refers to money payments payable under Part
5 2 of this division to an eligible unemployed individual with respect
6 to his wage losses due to unemployment as a result of *the*
7 *individual’s own illness or other disability injury, the sickness or*
8 *injury of a family member, or the birth, adoption, or foster care*
9 *placement of a new child, resulting in such that individual being*
10 *unavailable or unable to work due to such illness or disability.*

11 SEC. 2. Section 1143 of the Unemployment Insurance Code
12 is amended to read:

13 1143. If the director finds that any individual falsely certifies
14 the medical condition of any person in order to obtain disability
15 insurance benefits, *including family temporary disability*
16 *insurance benefits*, with the intent to defraud, whether for the
17 maker or for any other person, the director shall assess a penalty
18 against the individual in the amount of 25 percent of the benefits
19 paid as a result of the false certification. The provisions of this
20 article, the provisions of Article 9 (commencing with Section
21 1176) with respect to refunds, and the provisions of Chapter 7
22 (commencing with Section 1701) with respect to collections shall
23 apply to the assessments provided by this section. Penalties
24 collected under this section shall be deposited in the contingent
25 fund.

26 SEC. 3. Section 2656 of the Unemployment Insurance Code
27 is amended to read:

28 2656. (a) An individual eligible to receive disability benefits
29 who receives wages or regular wages from his or her employer
30 during the period of his or her disability shall be paid disability
31 benefits for any seven-day week or partial week in an amount not
32 to exceed his or her maximum weekly amount which together with
33 the wages or regular wages does not exceed his or her weekly

1 wage, exclusive of wages paid for overtime work, immediately
2 prior to the commencement of his or her disability.

3 (b) For purposes of this section, to determine the wages or
4 regular wages received by the eligible individual, the amount as
5 stated by the individual shall be presumed to be accurate. This
6 presumption is one affecting the burden of producing evidence.

7 (c) ~~For~~ *Except as provided in subdivision (g) of Section 3303,*
8 *for purposes of periods of disability commencing on or after*
9 *January 1, 1992, vacation pay is not considered wages for*
10 *determining eligibility for disability benefits.*

11 SEC. 4. Section 2679 of the Unemployment Insurance Code
12 is amended to read:

13 2679. Notwithstanding any other provision of law, an
14 individual *who is otherwise eligible* shall not be disqualified for
15 benefits under this part for the day on which he or she ~~died if the~~
16 ~~individual is otherwise eligible or a family member, as defined in~~
17 *Chapter 7 (commencing with Section 3300), for whom the*
18 *individual is providing care, died.*

19 SEC. 5. Section 2707.5 of the Unemployment Insurance Code
20 is amended to read:

21 2707.5. (a) The department may for good cause reconsider
22 any determination provided for in this ~~article~~ *part* prior to the filing
23 of an appeal therefrom, or within 30 days after an appeal to an
24 administrative law judge is filed. The department shall promptly
25 notify the claimant of any reconsidered determination, and the
26 claimant may appeal therefrom in the manner prescribed in
27 Section 2707.2. The director shall be an interested party to any
28 appeal.

29 (b) The department may for good cause reconsider any
30 computation or recomputation provided for in this ~~article~~ *part*
31 within one year from the beginning date of the disability benefit
32 period to which the notice of computation or recomputation
33 relates, except that no recomputation may be considered with
34 respect to any issue considered or under consideration in an appeal
35 taken from a denial of recomputation. The department shall
36 promptly notify the claimant of the recomputation. The claimant
37 may protest the accuracy of the recomputation as prescribed in
38 Section 2707.4.

SEC. 6. Section 2708 of the Unemployment Insurance Code, as amended by Section 4 of Chapter 901 of the Statutes of 2002, is amended to read:

2708. (a) (1) In accordance with the director's authorized regulations, and except as provided in subdivision (c) and Sections 2708.1 and 2709, a claimant shall establish medical eligibility for each uninterrupted period of disability by filing a first claim for disability benefits supported by the certificate of a treating physician or practitioner that establishes the sickness, injury, or pregnancy of the employee, or the condition of the family member that warrants the care of the employee. For subsequent periods of uninterrupted disability after the period covered by the initial certificate or any preceding continued claim, a claimant shall file a continued claim for those benefits supported by the certificate of a treating physician or practitioner. A certificate filed to establish medical eligibility for the employee's own sickness, injury, or pregnancy shall contain a diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, where no diagnosis has yet been obtained, a detailed statement of symptoms.

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(2) A certificate filed to establish medical eligibility of the employee's own sickness, injury, or pregnancy shall also contain a statement of medical facts including secondary diagnoses when applicable, within the physician's or practitioner's knowledge, based on a physical examination and a documented medical history of the claimant by the physician or practitioner, indicating his or her conclusion as to the claimant's disability, and a statement of his or her opinion as to the expected duration of the disability.

(b) A certificate filed to establish medical eligibility of the serious health condition of the family member that warrants the care of the employee *shall be within the physician's or practitioner's knowledge and based on a physical examination and documented medical history of the family member and shall contain all of the following:*

(1) A diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, where no diagnosis has yet been obtained, a detailed statement of symptoms.

(2) The date, if known, on which the condition commenced.

(3) The probable duration of the condition.

(4) An estimate of the amount of time that the physician or practitioner believes the employee is needed to care for the child, parent, spouse, or domestic partner.

(5) (A) A statement that the serious health condition warrants the participation of the employee to provide care for his or her child, parent, spouse, or domestic partner.

~~“Warrants~~

(B) “*Warrants* the participation of the employee” includes, but is not limited to, providing psychological comfort, and arranging “third party” care for the child, parent, spouse, or domestic partner, as well as directly providing, or participating in, the medical care.

(c) The department shall develop a certification form *that is separate and distinct from the certificate required in subdivision (a)* for an employee taking leave for reason of the birth of a child of the employee or the employee’s domestic partner, or the placement of a child who is unable to care for himself or herself with the employee in connection with the adoption or foster care of the child by the employee or domestic partner.

(d) The first and any continuing claim of an individual who obtains care and treatment outside this state, shall be supported by a certificate of a treating physician or practitioner duly licensed or certified by the state or foreign country in which the claimant is receiving the care and treatment. If a physician or practitioner licensed by and practicing in a foreign country is under investigation by the department for filing false claims and the department does not have legal remedies to conduct a criminal investigation or prosecution in that country, the department may suspend the processing of all further certifications until the physician or practitioner fully cooperates, and continues to cooperate with the investigation. A physician or practitioner licensed by and practicing in a foreign country who has been convicted of filing false claims with the department may not file a certificate in support of a claim for disability benefits for a period of five years.

(e) For purposes of this ~~part~~, the term “physician” ~~part~~:

(1) “Physician” has the same meaning as ~~it does~~ *defined* in Section 3209.3 of the Labor Code. ~~For purposes of this part,~~
~~“practitioner”~~

(2) “*Practitioner*” means a person duly licensed or certified in California acting within the scope of his or her license or certification who is a dentist, podiatrist, or as to normal pregnancy or childbirth, a midwife, nurse midwife, or nurse practitioner.

(f) For a claimant who is hospitalized in or under the authority of a county hospital in this state, a certificate of initial and continuing medical disability, if any, shall satisfy the requirements of this section if the disability is shown by the claimant’s hospital chart, and the certificate is signed by the hospital’s registrar. For a claimant hospitalized in or under the care of a medical facility of the United States government, a certificate of initial and continuing medical disability, if any, shall satisfy the requirements of this section if the disability is shown by the claimant’s hospital chart, and the certificate is signed by a medical officer of the facility duly authorized to do so.

(g) Nothing in this section shall be construed to preclude the department from requesting additional medical evidence to supplement the first or any continued claim if the additional evidence can be procured without additional cost to the claimant. The department may require that the additional evidence include ~~identification~~ any or all of the following:

(1) Identification of ~~diagnoses, symptoms, or a diagnoses.~~

(2) Identification of symptoms.

(3) A statement ~~as to~~ setting forth the facts of the claimant’s ~~disability by the disability.~~ The statement shall be completed by any of the following individuals:

(A) The physician or practitioner treating the ~~claimant, by the claimant.~~

(B) The registrar, authorized medical officer, or other duly authorized official of the hospital or health facility treating the ~~claimant, or by an claimant.~~

(C) An examining physician or other representative of the department.

SEC. 7. Section 2708.1 of the Unemployment Insurance Code is amended to read:

2708.1. ~~Where~~ (a) Except as provided in subdivision (b), where an individual is entitled to receive unemployment compensation disability benefits reduced by the amount of temporary workers’ compensation received for any day under Section 2629, it shall not be necessary that he or she obtain a

certificate of a physician as required by *subdivision (a)* of Section 2708 to receive the reduced amount of disability benefits for that ~~day~~; *day*, provided; that the claimant submits evidence to the department of receipt of temporary disability benefits under a workers' compensation law for that day.

(b) This section does not apply to Chapter 7 (commencing with Section 3300).

SEC. 8. Section 2709 of the Unemployment Insurance Code is amended to read:

2709. If any individual in good faith adheres to the teachings of any bona fide church, sect, denomination or organization and in accordance with its principles depends for healing entirely upon prayer or spiritual means, no medical examination shall be required, but in lieu thereof the director may accept the certificate of a duly authorized and accredited practitioner of ~~such that~~ bona fide church, sect, denomination or organization as to the disability of the claimant, *or the serious health condition of the family member that warrants the care of the individual, for purposes of Chapter 7 (commencing with Section 3300) of Part 2*, and the estimated duration of such disability, and no authorized regulation prescribing the manner of proof of illness ~~or injury~~, *injury*, or *serious health condition* shall discriminate against ~~such that~~ individual.

SEC. 9. Section 2714 of the Unemployment Insurance Code is amended to read:

2714. All medical records of the department obtained under this part, except to the extent necessary for the proper administration of this part, or as provided elsewhere in law shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the claimant *or family member*, or the nature or cause of his or her disability. Medical records that are disclosed shall be disclosed only pursuant to Section 1095, and ~~in any case~~, shall remain confidential.

SEC. 10. Section 3012 of the Unemployment Insurance Code is amended to read:

3012. (a) Notwithstanding Section 13340 of the Government Code, all money in the Disability Fund is continuously appropriated for the purpose of providing disability benefits pursuant to this part, including the payment of refunds, credits, or judgments, and interest thereon, the payment of disability benefits

1 to all eligible persons not covered exclusively by an approved
2 voluntary plan, and the payment of the expenses of administration
3 of this part and Section 17061 of the Revenue and Taxation Code
4 by the department and the Franchise Tax Board. “Eligible
5 persons” as used in this section, means those individuals who are
6 covered by the Disability Fund at the time their ~~period of~~ disability
7 ~~commences~~ *benefit periods commence*, or whose employment has
8 terminated or who are in noncovered employment at the time their
9 ~~period of~~ disability ~~commences~~ *benefit periods commence*, and
10 who are otherwise eligible for benefits under this part.

11 (b) For the purpose of keeping a record of the payments to and
12 the disbursements from the Disability Fund with respect to the
13 payment of benefits to persons whose employment has terminated
14 or who are in noncovered employment at the time their ~~period of~~
15 disability ~~commences~~ *benefit periods commence*, the director shall
16 maintain the Unemployed Disabled Account in the Disability
17 Fund. This account shall be credited with 12 percent of the product
18 obtained by multiplying the rate of worker contributions as
19 determined in Section 984, by the amount of the taxable wages
20 paid to employees covered by voluntary plans for disability
21 benefits for each calendar year. This account shall also be credited
22 with an amount equal to 12 percent of the product obtained by
23 multiplying the rate of worker contributions, as determined in
24 Section 984, by the amount of the taxable wages paid to employees
25 covered by the Disability Fund for each calendar year. This
26 account shall be charged each calendar year with disbursements
27 from the Disability Fund for the payment of benefits and the
28 additional administrative costs of the payment of benefits to
29 persons whose employment has terminated or who are in
30 noncovered employment at the time their ~~period of~~ disability
31 ~~commences~~ *benefit periods commence*.

32 SEC. 11. Section 3253 of the Unemployment Insurance Code
33 is amended to read:

34 3253. Except as provided in this part, an employee covered by
35 an approved voluntary plan at the commencement of a disability
36 benefit period, ~~as defined in Section 2608~~, shall not be entitled to
37 benefits from the Disability Fund. Benefits payable to such an
38 employee shall be the liability of the approved voluntary plan
39 under which the employee was covered at the commencement of
40 the disability benefit period, regardless of any subsequent

1 disabling condition which may occur during that disability benefit
2 period. The Director of Employment Development shall prescribe
3 authorized regulations to allow benefits to individuals
4 simultaneously covered by one or more approved voluntary plans
5 and the Disability Fund.

6 SEC. 12. Section 3254 of the Unemployment Insurance Code,
7 as amended by Section 5 of Chapter 901 of the Statutes of 2002,
8 is amended to read:

9 3254. The Director of Employment Development shall
10 approve any voluntary plan, except one filed pursuant to Section
11 3255, as to which he or she finds that there is at least one employee
12 in employment and all of the following exist:

13 (a) The rights afforded to the covered employees are greater
14 than those provided for in Chapter 2 (commencing with Section
15 2625) and those provided for in Chapter 7 (commencing with
16 Section 3300).

17 (b) The plan has been made available to all of the employees of
18 the employer employed in this state or to all employees at any one
19 distinct, separate establishment maintained by the employer in this
20 state. "Employees" as used in this subdivision includes those
21 individuals in partial or other forms of short-time employment and
22 employees not in employment as the Director of Employment
23 Development shall prescribe by authorized regulations.

24 (c) A majority of the employees of the employer employed in
25 this state or a majority of the employees employed at any one
26 distinct, separate establishment maintained by the employer in this
27 state have consented to the plan.

28 (d) If the plan provides for insurance the form of the insurance
29 policies to be issued have been approved by the Insurance
30 Commissioner and are to be issued by an admitted disability
31 insurer.

32 (e) The employer has consented to the plan and has agreed to
33 make the payroll deductions required, if any, and transmit the
34 proceeds to the plan insurer, if any.

35 (f) The plan provides for the inclusion of future employees.

36 (g) The plan will be in effect for a period of not less than one
37 year and, thereafter, continuously unless the Director of
38 Employment Development finds that the employer or a majority
39 of its employees employed in this state covered by the plan have
40 given notice of ~~the termination of~~ *withdrawal from* the plan. The

1 notice shall be filed in writing with the Director of Employment
2 Development and shall be effective only on the anniversary of the
3 effective date of the plan next following the filing of the notice, but
4 in any event not less than 30 days from the time of the filing of the
5 notice; except that the plan may be ~~terminated~~ *withdrawn* on the
6 operative date of any law increasing the benefit amounts provided
7 by Sections 2653 and 2655 or the operative date of any change in
8 the rate of worker contributions as determined by Section 984, if
9 notice of the ~~termination~~ *of withdrawal from* the plan is
10 transmitted to the Director of Employment Development not less
11 than 30 days prior to the operative date of that law or change. If the
12 plan is not ~~terminated~~ *withdrawn* on the 30 days' notice because
13 of the enactment of a law increasing benefits or because of a
14 change in the rate of worker contributions as determined by
15 Section 984, the plan shall be amended to conform to that increase
16 or change on the operative date of the increase or change.

17 (h) The amount of deductions from the wages of an employee
18 in effect for any plan shall not be increased on other than an
19 anniversary of the effective date of the plan except to the extent
20 that any increase in the deductions from the wages of an employee
21 allowed by Section 3260 permits that amount to exceed the amount
22 of deductions in effect.

23 (i) The approval of the plan or plans will not result in a
24 substantial selection of risks adverse to the Disability Fund.

25 SEC. 13. Section 3301 of the Unemployment Insurance Code
26 is amended to read:

27 3301. (a) (1) The purpose of this chapter is to establish,
28 within the state disability insurance program, a family temporary
29 disability insurance ~~program to program~~. *Family temporary*
30 *disability insurance shall* provide up to six weeks of wage
31 replacement benefits to workers who take time off work to care for
32 a seriously ill child, spouse, parent, domestic partner, or to bond
33 with a new child *for periods beginning on or after July 1, 2004*.

34 ~~Nothing~~

35 (2) *Nothing* in this chapter shall be construed to abridge the
36 rights and responsibilities conveyed under the CFRA or pregnancy
37 disability leave.

38 (b) An individual's "weekly benefit amount" shall be the
39 amount provided in Section 2655. *An individual is eligible to*
40 *receive family temporary disability insurance benefits equal to*



1 *one-seventh of his or her weekly benefit amount for each full day*
 2 *during which he or she is unable to work due to the sickness or*
 3 *injury of a family member, or the birth, adoption, or foster care*
 4 *placement of a new child.*

5 (c) The maximum amount payable to an individual during any
 6 disability benefit period for family temporary disability insurance
 7 shall be six times his or her “weekly benefit amount,” but in no
 8 case shall the total amount of benefits payable be more than the
 9 total wages paid to the individual during his or her disability base
 10 period. If the benefit is not a multiple of one dollar (\$1), it shall be
 11 computed to the next higher multiple of one dollar (\$1).

12 (d) No more than six weeks of family temporary disability
 13 insurance benefits shall be paid within any 12-month period.

14 (e) *An individual shall file a claim for family temporary*
 15 *disability insurance benefits not later than the 41st consecutive*
 16 *day following the first compensable day with respect to which the*
 17 *claim is made for benefits, which time shall be extended by the*
 18 *department upon a showing of good cause. If a first claim is not*
 19 *complete, the claim form shall be returned to the claimant for*
 20 *completion and it shall be completed and returned not later than*
 21 *the 10th consecutive day after the date it was mailed by the*
 22 *department to the claimant, except that such time shall be extended*
 23 *by the department upon a showing of good cause.*

24 SEC. 14. Section 3302 of the Unemployment Insurance Code
 25 is amended to read:

26 3302. For purposes of this part:

27 (a) “Care recipient” means the family member or child who is
 28 receiving care for a serious health condition.

29 (b) “Care provider” means the family member who is
 30 providing the required care.

31 (c) “Child” means a biological, adopted, or foster son or
 32 daughter, a stepson or stepdaughter, a legal ward, a son or daughter
 33 of a domestic partner, or ~~a son or daughter of an employee who the~~
 34 ~~person to whom the employee~~ stands in loco parentis ~~to that child.~~

35 ~~(b) “Family care leave” means any of the following:~~

36 ~~(1) Leave for reason of the birth of a child of the employee or~~
 37 ~~the employee’s domestic partner, the placement of a child with an~~
 38 ~~employee in connection with the adoption or foster care of the~~
 39 ~~child by the employee or domestic partner, or the serious health~~
 40 ~~condition of a child of the employee, spouse or domestic partner.~~

~~(2) Leave to care for a parent, spouse, or domestic partner who has a serious health condition.~~

~~(e) “Parent” means a biological, foster, or adoptive parent, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.~~

(d) “Domestic partner” has the same meaning as defined in Section 297 of the Family Code.

(e) “Family care leave” means any of the following:

(1) Leave for reason of the birth of a child of the employee or the employee’s domestic partner, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee or domestic partner, or the serious health condition of a child of the employee, spouse, or domestic partner.

~~(2) Leave to care for a parent, spouse, or domestic partner who has a serious health condition.~~

(f) “Family member” means child, parent, spouse, or domestic partner as defined in this section.

(g) “Parent” means a biological, foster, or adoptive parent, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

(h) “Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or continuing supervision by a health care provider, as defined in Section 12945.2 of the Government Code.

(i) “Spouse” has the same meaning as defined in Section 300 of the Family Code.

(j) “Valid claim” means any claim for family temporary disability insurance benefits made in accordance with the provisions of this code, and any rules and regulations adopted thereunder, if the individual claiming benefits is unemployed and has been paid the necessary wages in employment for employers to qualify for benefits under Section 2652 and is caring for a seriously ill family member, or bonding with a new child during the first year after the birth or placement of the child who is unable to care for himself or herself.

(k) “Twelve-month period,” with respect to any individual, means the 52-week period beginning with the first day the

1 *individual first establishes a valid claim for family temporary*
2 *disability benefits.*

3 SEC. 15. Section 3302.1 is added to the Unemployment
4 Insurance Code, to read:

5 3302.1. For purposes of this chapter:

6 (a) “Disability benefit period” with respect to any individual,
7 means the period of unemployment beginning with the first day an
8 individual establishes a valid claim for family temporary disability
9 insurance benefits to care for a seriously ill family member, or to
10 bond with a new child during the first year after birth, or for
11 placement of a child who is unable to care for herself or himself.

12 (b) Consecutive periods of disability within a 12-month period
13 due to the same or related cause or condition shall be considered
14 one disability benefit period.

15 (c) Consecutive periods of disability for pregnancy and
16 bonding associated with the birth of a child shall be considered one
17 disability benefit period.

18 SEC. 16. Section 3303 of the Unemployment Insurance Code
19 is amended to read:

20 3303. (a) An individual shall be deemed eligible for family
21 temporary disability insurance benefits on any day in which he or
22 she is unable to perform his or her regular or customary work
23 because he or she is caring for a new child during the first year after
24 the birth ~~or, adoption, or foster care~~ placement of the child or a
25 seriously ill child, parent, spouse, or domestic partner, subject to
26 a waiting period of seven consecutive days during each family
27 temporary disability benefit period where no benefits are payable
28 within that period.

29 (b) An individual is not eligible for family temporary disability
30 insurance benefits with respect to any day that he or she has
31 received *or is eligible to receive* unemployment compensation
32 benefits under Part 1 (commencing with Section 100) or under an
33 unemployment compensation act of any other state or of the
34 federal government.

35 (c) An individual is not eligible for family temporary disability
36 insurance benefits with respect to any day ~~of unemployment and~~
37 ~~disability~~ for which he or she has received, or is entitled to receive,
38 “other benefits” in the form of cash benefits as defined in
39 ~~subdivision (b) of~~ Section 2629.

1 (d) An individual is not eligible for family temporary disability
2 insurance benefits with respect to any day that he or she *has*
3 *received or* is entitled to receive state disability insurance benefits
4 under Part 2 (commencing with Section 2601) or under a disability
5 insurance act of any other state.

6 (e) An individual is not eligible for family temporary disability
7 insurance benefits with respect to any day that another family
8 member ~~is~~, *as defined in Section 3302, is ready, willing, and able*
9 and available for the same period of time *in a day* that the
10 individual is providing the required care.

11 (f) An individual who is entitled to leave under the FMLA and
12 the CFRA must take Family Temporary Disability Insurance
13 (FTDI) leave concurrent with leave taken under the FMLA and the
14 CFRA.

15 (g) As a condition of an employee's initial receipt of family
16 temporary disability insurance benefits during any 12-month
17 period in which an employee is eligible for these benefits, an
18 employer may require an employee to take up to two weeks of
19 earned but unused vacation leave prior to the employee's initial
20 receipt of these benefits. If an employer so requires an employee
21 to take vacation leave, that portion of the vacation leave that does
22 not exceed one week shall be applied to the waiting period required
23 under subdivision (a). This subdivision may not be construed in a
24 manner that relieves an employer of any duty of collective
25 bargaining the employer may have with respect to the subject
26 matter of this subdivision.

27 SEC. 17. Section 3306 is added to the Unemployment
28 Insurance Code, to read:

29 3306. (a) The director may request additional medical
30 evidence to supplement the first or any continued claim if the
31 additional evidence can be procured without additional cost to the
32 care recipient. The director may require that the additional
33 evidence include any or all of the following information:

34 (1) Identification of diagnoses.

35 (2) Identification of symptoms.

36 (3) A statement setting forth the facts of the care recipient's
37 serious health condition that warrants the participation of the
38 employee. The statement shall be completed by any of the
39 following people:

40 (A) The physician or practitioner treating the care recipient.

1 (B) The registrar, authorized medical officer, or other duly
2 authorized official of the hospital or health facility treating the care
3 recipient.

4 (C) An examining physician or other representative of the
5 department.

6 (b) Except as provided in Section 2709, the director may
7 require the care recipient to submit to reasonable examinations for
8 the purpose of determining all of the following:

9 (1) Whether a serious health condition exists.

10 (2) Whether a care provider's participation is warranted.

11 (3) The period of time that the care provider's participation is
12 warranted.

13 SEC. 18. This act shall become operative on January 1, 2004,
14 except that benefits shall be payable for periods of family
15 temporary disability leave commencing on or after July 1, 2004.

